

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON RODNEY LENEY,
Petitioner,
v.
BUTTE COUNTY JAIL,
Respondent.

No. 2:24-cv-2509 CSK P

ORDER

Petitioner, a former county jail inmate proceeding pro se and in forma pauperis, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his amended petition, petitioner challenges his December 23, 2023 conviction for misdemeanor domestic battery. (ECF No. 4 at 1.) On November 27, 2024, the Court recommended that this action be dismissed based on petitioner's failure to exhaust his state court remedies. The findings and recommendations are pending review by the district court.

On April 23, 2025, petitioner filed a motion to combine his cases. (ECF No. 13.) Petitioner addressed his filing to Magistrate Judge Sean C. Riordan, and asked that petitioner's case "Leney v. Butte County Jail 2650," and Leney v. Andrews be combined." (Id. at 1.) However, petitioner's case, Leney v. Butte County Jail, No. 2:24-cv-2650 CSK P (E.D. Cal.), in which petitioner also sought habeas relief, was terminated on November 25, 2024. Leney v. Butte County Jail, No. 2:24-cv-2650 CSK P (ECF No. 11). Moreover, petitioner's case Leney v. Butte County Jail, No. 2:24-cv-2650 CSK P (ECF No. 11).

1 Andrews, No. 2:24-cv-2865 SCR P (E.D. Cal.), is not a habeas case, but is a civil rights case filed
 2 pursuant to 42 U.S.C. § 1983. Therefore, it is not appropriate to combine the closed habeas case,
 3 No. 2:24-cv-2650 CSK P, with plaintiff's pending civil rights case.¹

4 Petitioner also seeks leave to proceed in forma pauperis, and requests the appointment of
 5 counsel. However, petitioner was already granted leave to proceed in forma pauperis on
 6 November 27, 2024. (ECF. No. 11.) Therefore, his request is denied as moot. Because this
 7 Court recommended dismissal of this action and the findings and recommendations are pending
 8 before the district court, the Court denies petitioner's motion for appointment of counsel without
 9 prejudice.

10 Finally, because this action challenges petitioner's conviction, all claims concerning
 11 petitioner's conditions of confinement, including retaliation (ECF No. 13 at 2), should be
 12 addressed in his pending civil rights action, Leney v. Andrews, No. 2:24-cv-2865 SCR P.²

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Petitioner's motion to combine cases (ECF No. 13) is denied.
- 15 2. Petitioner's motion to proceed in forma paupers (ECF No. 13) is denied as moot.
- 16 3. Petitioner's motion for appointment of counsel (ECF No. 13) is denied without
 17 prejudice.

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 19 Dated: April 30, 2025

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 CHI SOO KIM
 UNITED STATES MAGISTRATE JUDGE

21 ¹ As a general rule, a claim that challenges the fact or duration of a prisoner's confinement
 22 should be addressed by filing a habeas corpus petition, while a claim that challenges the
 23 conditions of confinement should be addressed by filing a civil rights action. See Wolff v.
McDonnell, 418 U.S. 539, 554 (1974); Ramirez v. Galaza, 334 F.3d 850, 858-859 (9th Cir.
 2003), cert. denied, 541 U.S. 1063 (2004).

24 ² Petitioner's motion was also filed in Leney v. Andrews, No. 2:24-cv-2865 SCR P (ECF No.
 25 10). The Court acknowledges petitioner's ending statement that he has "reason to believe" his
 26 "safety is at stake" (ECF No. 13 at 2), but petitioner provided no specific facts concerning an
 27 alleged threat to his safety. Moreover, because petitioner's address demonstrates he is no longer
 28 in custody, it is unclear whether the alleged threat is posed by an individual acting under color of
 state law. In any event, petitioner's contention is more appropriately addressed in his civil rights
 action, where it is currently pending (Leney v. Andrews, No. 2:24-cv-2865 SCR P), rather than
 his habeas action, which addresses only the fact or duration of plaintiff's confinement.